

October 28, 2008

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUITElisabeth A. Shumaker
Clerk of Court

LLOYD NEIL POPE,

Plaintiff - Appellant,

v.

EDWIN CARNS, M.D.; LINDSEY
MUNICIPAL HOSPITAL; MAGNESS,
M.D.,

Defendants - Appellees.

No. 08-6200
(D.C. No. 5:07-CV-1331-F)
(W. D. Oklahoma)

ORDER

Before **MURPHY, TYMKOVICH, and GORSUCH**, Circuit Judges.

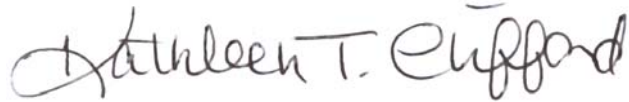
This appeal is before the court based on a show cause order challenging appellate jurisdiction and directing the parties to obtain a district court order either granting certification under Fed. R. Civ. P. 54(b) as to the August 8, 2008 Order appealed by Plaintiff Pope or explicitly adjudicating all claims against the remaining Defendants, Lindsey Municipal Hospital and Dr. Magness. *See Stockman's Water Company, LLC v. Vaca Partners, L.P.*, 425 F.3d 1263, 1265 (10th Cir. 2005); *Lewis v. B. F. Goodrich Co.*, 850 F.2d 641, 645-46 (10th Cir. 1988).

The court lacks appellate jurisdiction. The parties did not move in the district

court for a Rule 54(b) certification. Plaintiff's claims against Defendants Lindsey Municipal Hospital and Dr. Magness remain unresolved in the district court. Consequently, the August 8, 2008 Order appealed by Plaintiff Pope is interlocutory and not immediately appealable under 28 U.S.C. § 1291 or under any recognized exception to the final judgment rule.

The appeal is **DISMISSED** for lack of appellate jurisdiction.

Entered for the Court,
Elisabeth A. Shumaker, Clerk

A handwritten signature in dark ink, reading "Kathleen T. Clifford". The signature is written in a cursive, flowing style with a large initial 'K'.

Kathleen T. Clifford
Attorney - Deputy Clerk